



NC DEPARTMENT OF
**HEALTH AND
HUMAN SERVICES**

ROY COOPER • Governor

MANDY COHEN, MD, MPH • Secretary

SUSAN OSBORNE • Assistant Secretary for County Operations for
Human Services

VIA CERTIFIED LETTER

NOTICE OF ADMINISTRATIVE ACTION

Type of Action: Denial of Application for Licensure of a Residential Child-Care Facility

Applicant: Barbara Brockington
P.O. Box 2452
Lumberton, NC 28359-2452

Agency: New Horizon Group Home, LLC

Date: July 31, 2019

PLEASE TAKE NOTICE that the North Carolina Department of Health and Human Services (NCDHHS), Division of Social Services has determined that your facility does not comply with all the statutes and rules for licensure as a residential child-care facility and is, therefore, denying your application to operate a residential child-care facility.

AREAS OF NON-COMPLIANCE WITH STATUTES AND RULES:

NCDHHS is tasked with protecting the health, safety and well-being of children who are separated from their families. N.C.G.S. § 131D-10.1 requires that the quality of care for children separated from their families be as close as possible to the care and nurturing that society expects of a family. Children who have been removed from their families are an at-risk population and many of them have greater needs than most children. In licensing a residential child-care facility, the child's best interest is paramount. Pursuant to N.C.G.S. § 131D-10.6, N.C.G.S. § 131D-10.3, 10A N.C.A.C. 70I .0101, and 10A N.C.A.C. 70L .0201, NCDHHS shall deny an application for a residential child-care facility license if it finds that either the licensure laws in Article 1A of Chapter 131D of the General Statutes or the licensure rules in Chapter 70 of Title 10A of the North Carolina Administrative Code are not met. As required by 10A N.C.A.C. 70I .0101(f), NCDHHS has reviewed licensure actions taken against New Horizon Group Home, LLC pursuant to Chapter 122C of the General Statutes. Based on a review conducted by NCDHHS of information that it obtained, it finds that the following residential child-care facility licensure laws and rules are not met:

NC DEPARTMENT OF HEALTH AND HUMAN SERVICES • DIVISION OF SOCIAL SERVICES

LOCATION: 820 S. Boylan Avenue, McBryde Building, Raleigh, NC 27603

MAILING ADDRESS: 2401 Mail Service Center, Raleigh, NC 27699-2401

www.ncdhhs.gov • TEL: 919-855-6335 • FAX: 919-334-1018

AN EQUAL OPPORTUNITY / AFFIRMATIVE ACTION EMPLOYER

N.C.G.S. § 131D-10.6 and 10A NCAC 70L .0201(a)

NCDHHS finds that the health, safety or welfare of children is threatened.

N.C.G.S. § 131D-10.3(h)(2)(b) and 10A N.C.A.C. 70I .0101(f)(1)(A)(ii)

A Type A1 penalty was incurred and two violations were assessed in the 18 months prior to the application and 18 months have not passed from the date of the most recent violation.

N.C.G.S. § 131D-10.3(h)(2)(c) and 10A N.C.A.C. 70I .0101(f)(1)(A)(iii)

A Type A1 penalty was incurred and three violations were assessed in the 36 months prior to the application and 36 months have not passed from the date of the most recent violation.

10A N.C.A.C. 70L .0201(a)(3) and 10A N.C.A.C. 70I .0101(f)(1)(C)

The applicant has a pending appeal of a revocation of any facility or agency licensed pursuant to G.S. 122C, Article 2, G.S. 131D, Articles 1 or 1A, or G.S. 110, Article 7, which is owned by the applicant.

10A N.C.A.C. 70L .0201(a)(3) and 10A N.C.A.C. 70I .0101(f)(1)(C)

The applicant has a pending appeal of a summary suspension of any facility or agency licensed pursuant to G.S. 122C, Article 2, G.S. 131D, Articles 1 or 1A, or G.S. 110, Article 7, which is owned by the applicant.

N.C.G.S. § 131D-10.3(h)(3) and 10A N.C.A.C. 70I .0101(f)(1)(D)

The applicant has an individual as part of their governing body or management who previously held a license that was revoked or summarily suspended under G.S. 122C, Article 2 and the related rules and 60 months have not passed from the date of the summary suspension.

10A N.C.A.C. 70L .0201(a)(4)

The applicant has an individual as part of the governing body or management who previously held a license which was revoked or summarily suspended under G.S. 122C, Article 2, G.S. 131D, Articles 1 or 1A, and G.S. 110, Article 7 and the rules adopted under these laws.

BASIS FOR ACTION

On July 17, 2019, NCDHHS received a new residential child-care facility license application for New Horizon Group Home, LLC. NCDHHS conducted a review of the submitted application and supporting documentation along with additional information about the applicant and has determined that the application should be denied for the reasons listed below.

As part of its review, NCDHHS conducted a web-based search of the North Carolina Secretary of State and the NCDHHS Provider Penalty Tracking Database. Additional

documentation was also obtained from the North Carolina Division of Health Service Regulation (NCDHSR), Mental Health Licensure and Certification Section.

On April 11, 2018, NCDHSR issued a summary suspension letter to New Horizon Group Home, LLC, which demanded New Horizon Group Home, LLC to close by the end of the day. NCDHSR took emergency action to close New Horizon Group Home, LLC due to eleven rule violations for various reasons, which are stated in the summary suspension letter and incorporated to this notice. In its letter NCDHSR found that New Horizon Group Home, LLC neglected to provide services to assure the health, safety and welfare of the clients.

On April 26, 2018, NCDHSR issued a notice of three Type A1 Administrative Penalties to New Horizon Group Home, LLC. The Type A1 penalties were based on NCDHSR's finding that New Horizon Group Home, LLC violated laws and rules in Chapter 122C of the General Statutes and related rules. NCDHSR assessed administrative penalties for violations of 10A N.C.A.C. 27G .1801, 10A N.C.A.C. 27D .0304, and N.C.A.C. 27E .0101. The April 26, 2018 letter with the specific violations and the basis for the violations is attached to this notice and incorporated herein.

On June 1, 2018, NCDHSR issued a notice of revocation to New Horizon Group Home, LLC of its license for violating 22 laws and rules relating to Chapter 122C of the General Statutes and related rules. The June 1, 2018 notice of revocation was based on a Statement of Deficiencies that NCDHSR issued to New Horizon Group Home, LLC on April 13, 2018. Both the notice of revocation and the Statement of Deficiencies are attached to this letter and incorporated herein.

New Horizon Group Home, LLC appealed the notice of revocation, summary suspension, and penalty assessments to the North Carolina Office of Administrative Hearings and the case is pending.

Additionally, based on the above cited laws and rules and N.C.G.S. § 131D-10.3(h)(2) and 10A N.C.A.C. 70I .0101(f)(A), a license cannot be issued to the applicant if the revocation or any of the penalty assessments are upheld by the North Carolina Office of Administrative Hearings.

PROCEDURES FOR FORMAL APPEAL

A. Petition

You have a right to file a petition for a contested case to request a formal appeal of this decision by an administrative law judge. You can file a petition for a contested case with the North Carolina Office of Administrative Hearings (OAH). You may obtain a petition form by downloading a copy from the OAH Hearings website (<http://www.oah.state.nc.us/>), by calling OAH at (919) 431-3000, or by writing to the Clerk of OAH at the following address: Office of Administrative Hearings, 6714 Mail Service Center, Raleigh, N.C. 27699-6700. If you do not use the OAH petition form, your request for a hearing must meet the requirements of a petition as set forth in N.C.G.S. § 150B-23. You can file your petition by mailing the original and one copy of the petition to the

above provided address for OAH. Your petition must name the North Carolina Department of Health and Human Services (not a county department of social services) as the Respondent in the case. As required by 10A N.C.A.C. 70L .0301, your petition must include a statement of the facts prompting your request for an appeal that is sufficient to allow for appropriate processing by NCDSS.

B. Certificate of Service

If you file a petition, as required by N.C.G.S. § 150B-23, you must include a certificate of service that shows you served a copy of the petition on the N.C. Department of Health and Human (NCDHHS) at the following address: Office of General Counsel, NCDHHS, Office of Legal Affairs, Adams Building, 2001 Mail Service Center, Raleigh, N.C. 27699-2001. The petition form provided by OAH includes a certificate of service section for you to complete. When you mail the original and one copy of the petition with the certificate of service to OAH, you must also mail a copy of the petition to the NCDHHS Office of General Counsel. Do not serve the petition on your supervising agency or a county department of social services because it will not satisfy the requirement in N.C.G.S. § 150B-23 that you serve a copy of the petition on the NCDHHS.

C. Time Limits

To preserve your right to an appeal, your petition and certificate of service must be received by OAH **within sixty (60) days of the date of this notice** otherwise your right to an appeal may be lost. You must allow sufficient time for the document to arrive by mail.

Sincerely,



Lisa T. Cauley
Deputy Director for Child Welfare Services

Attachments:

Type A1 Administrative Penalties Letter
Summary Suspension of License to Operate Letter
Notice of Revocation of License Letter
Statement of Deficiencies and Plan of Correction

CC:

Susan Osborne, Assistant Secretary for County Operations for Human Services
Stephanie Gilliam, Chief Mental Health Licensure & Certification Section
Michiele Elliott, Assistant Chief Mental Health Licensure & Certification Section
Regina Cucurullo, Office of the Attorney General
Julie Y. Cronin, Assistant General Counsel
Teresa Strom, NCDSS Section Chief
Linda Waite, NCDSS Regulatory and Licensing Program Administrator